

REMARKS/ARGUMENT

Status of Claims

Claims 1, 3, 5-15, and 17-20 were pending before the present response.

No claims are amended herein. No new matter is added. No amendment made is related to the statutory requirements of patentability unless expressly stated herein. No amendment is made for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment is made to distinguish over a particular reference or combination of references. Any remarks made herein with respect to a given claim or amendment is intended only in the context of that specific claim or amendment, and should not be applied to other claims, amendments, or aspects of Applicant's invention.

Claims 1, 3, 5-15, and 17-20 are now pending.

Rejections under 35 U.S.C. § 102

The Examiner “maintains previous Examiner’s rationale (mailed on 2/5/2009) in rejecting Claims 1, 3, 5-15 and 17-20.” (Office Action, item 1, p. 2).

Claims 1 and 5 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Publication Number 2003/0018913 to Brezak et al. (hereinafter “Brezak”). The rejections of claims 1 and 5 under 35 U.S.C. § 102(e) are respectfully traversed.

Applicant has previously amended claim 1 to recite “wherein the KDC is a separate entity from the first application server,” to provide a clarification suggested by the Office Action of Feb. 5, 2009 (see page 3, item 7).

The Examiner continues to rely on Brezak as the primary reference in maintaining the rejection. It is believed that claim 1 is not anticipated by Brezak, which is a different system than that presently claimed by Applicant. Brezak allows a first server to be a proxy for the client when requesting data from a second server. *See* paragraphs [0044], [0046], [0048] and [0054]. By way of being a proxy, server 210 forwards client specific information directly to another server such as server 212 or 214. *Id.*

As can be seen in Applicant's Fig. 1, neither server 107 nor 106 acts as a proxy for client 102 to request data from the other. The claims, as presently written, support this contention. Specifically, claim 1 includes the language

sending the access information, session rights and authentication to a client, whereby the client presents the access information, session rights and authentication to the first application server to be authorized to receive the desired content from the first application server

As can be seen from this language, it is the client (and not another server as described in Brezak) that forwards information to the data-providing server.

In making the rejection of Feb. 5, 2009, the previous Examiner incorrectly equated the claimed "third party server" with Brezak's trusted third-party server 206. Brezak also gives examples of what the trusted third-party server 206 could be, and Brezak's examples include being a key distribution center (KDC). See OA of Feb. 5, 2009, page 12, lines 20-21. Therefore, the Examiner is equating the claimed "third party server" with a KDC. This interpretation conflicts with Applicant's claim language because later in claim 1, Applicant recites a KDC as a separate entity from the third party server. Thus, equating Brezak's trusted third-party server 206 with Applicant's claimed "third party server" renders Applicant's later recitation of a "key distribution center" out of the claim, and is improper.

In response to this argument, the Office Action of Feb. 5, 2009 asserted that the claim language "does not distinguish the KDC as being a separate entity." Applicant respectfully disagrees, but nevertheless previously amended the claim to clarify, and to specifically recite "wherein the KDC is a separate entity from the first application server."

Applicant further points out that the claim clearly recites both a "third party server" and a "KDC." If Applicant had intended for the KDC to be the "third party server," Applicant would have claimed the third party server instead of the KDC. Applicant respectfully points out that the previous Examiner was re-writing the claims in an effort to make an inappropriate reference apply to the present application. While

Applicant agrees that the specification cannot be read into the claims, an Examiner cannot read out express limitations from a claim in order to make a rejection.

The previous Examiner also asserted that Brezak teaches “sending the access information, session rights and authentication to a client,” in paragraphs [0048] (Office Action of Feb. 5, 2009, page 6) and in paragraphs [0039] – [0043] (Office Action of Feb. 5, 2009, page 3, item 7.1).

Brezak does not transmit any information to the client in paragraph [0048]. Instead, Brezak teaches sending client information from trusted third-party server 206 to server 210. The client 202 receives nothing in paragraph [0048]. Indeed, since the purpose of Brezak is to have one server act as a proxy for a client, as previously described, the client would never send this type of information because that responsibility has been delegated to a server.

Applicant notes that an authentication reply is sent to a client in paragraph [0042], and acknowledges the previous Examiner’s citation of an “authentication service . . . receiving an ‘authentication request message’” in paragraph [0043]. However, no mention of either **access information** or **session rights** is made in Brezak’s paragraphs [0039] - [0043]. Thus, Brezak does not teach **every one** of the limitations of claim 1 as asserted by the Examiner, because Brezak fails to teach “sending the **access information** . . . to a client,” as recited in claim 1.

It is noted that the Office Action of Feb. 5, 2009, at the second bullet point of page 6, implicitly acknowledges that Brezak fails to teach “sending the access information, **session rights** and authentication to a client” (emphasis added). The Office Action of Feb. 5, 2009 omits the words “**session rights**,” and thus the Office Action of Feb. 5, 2009 fails even to assert that Brezak teaches the limitation of “sending the . . . session rights . . . to a client” as recited in claim 1.

Applicant respectfully points out that the present Office Action has not remedied the oversights and flaws of the previous Examiner’s Office Action, and instead has merely maintained the art rejections of the Office Action of Feb. 5, 2009.

Claim 5 is allowable at least because claim 5 depends from independent base claim 1, which is an allowable base claim for at least the reasons discussed above.

Rejections under 35 U.S.C. § 103

The Examiner “maintains previous Examiner’s rationale (mailed on 2/5/2009) in rejecting Claims 1, 3, 5-15 and 17-20.” (Office Action, item 1, p. 2).

Claims 3, 6-15, and 17-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brezak and further in view of U.S. Pat. No. 6,381,331 B1 to Kato (hereinafter “Kato”). The rejections of claims 3, 6-15, and 17-20 under 35 U.S.C. § 103(a) are respectfully traversed.

Claims 3, 6, and 7 are allowable at least because claims 3, 6, and 7 depend from independent base claim 1, which is an allowable base claim for at least the reasons discussed above with respect to the rejection of claim 1 under § 102(e).

With respect to independent claims 8 and 17, Applicant has previously amended claims 8 and 17 to recite “issuing a key reply **directly to the client** if the authentication of the third party access information, session rights and the client authorization are verified,” to provide a clarification suggested by the Office Action of Feb. 5, 2009 (see page 4, item 7.2).

Further with respect to independent claims 8 and 17, Applicant respectfully submits that the previous Examiner incorrectly relied on alleged teachings in the Brezak reference that, in fact, are not disclosed or suggested by Brezak, and are not supplied by Kato.

First, the previous Examiner asserted with respect to claims 8 and 17 (at pages 13 and 20, respectively, of the Office Action of Feb. 5, 2009) that Brezak teaches “issuing a key reply” in paragraph [0048]. Applicant respectfully submits that the previous Examiner was incorrect, in that Brezak does not disclose issuing a key reply. Applicant’s claims 8 and 17, as previously amended, further includes the limitation that the key reply is issued directly to a client:

issuing a key reply **directly to a client** if the authentication of the access information, session rights and the client authorization are verified
(emphasis added). This feature is not taught by Brezak. Indeed, Brezak does not transmit any information to the client in paragraph [0048]. Instead, Brezak teaches

sending client information from trusted third-party server 206 to server 210. The client 202 receives nothing in paragraph [0048].

Applicant's claim 8 further includes the limitation that the key request is received from a client:

the application server receiving a key request **from a client** wherein the key request includes the second service ticket

(emphasis added). The Examiner cites paragraph [0045] for this feature; however, this limitation is absent from Brezak. The messages 230 and 232 in Figure 2 of Brezak are between the server A 210 and the trusted third party 204 and do **not** involve a message from a client.

Indeed, since the purpose of Brezak is to have one server act as a proxy for a client, as previously described, the client would never send this type of information because that responsibility has been delegated to a server. Brezak does not present any data to the first application server that controls content distribution. Instead, Brezak passes service credential data from either the client or from another source on behalf of the client to a server that then obtains desired content from the target server. Paragraph [0008]. Thus, as has been previously stated, a server asks for content on behalf of the client in Brezak as opposed to the present application where the client asks for the content directly from the server controlling access to the content.

It would be contrary to this teaching of Brezak to have “the application server receiving a key request from a client,” as required by claim 8, and “issuing a key reply directly to a client,” as required by claims 8 and 17. “A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be . . . led in a direction divergent from the path that was taken by the applicant.” *In re Kahn*, 441 F.3d 977, 990 (Fed. Cir. 2006) (quoting *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994)). Thus, Brezak *teaches away* from “the application server receiving a key request from a client” and *teaches away* from “issuing a key reply directly to a client.”

Even if Brezak were combined with Kato, or other prior art references, Applicant respectfully submits that Brezak fails to provide a basis for a rejection under 35 U.S.C. § 103, at least because Brezak expressly *teaches away* from either “the application server

receiving a key request from a client” or “issuing a key reply directly to a client.” Because Brezak is an improper basis for rejecting Applicant’s claims, the combination of Brezak with Kato, or other prior art references, also is an improper basis for rejecting Applicant’s claims.

Applicant respectfully points out that neither the previous Examiner nor the present Office Action has responded to the “teaching away” argument set forth above.

Kato fails to supply the foregoing features missing from Brezak, and accordingly, the combination of Brezak and Kato cannot suggest the invention and cannot render the claims obvious. Thus, no matter how Brezak and Kato may be combined (even assuming, arguendo, that one of ordinary skill in the art would be led to combine them) the resulting combination is not the invention recited in any of independent claims 1, 8, and 17. Dependent claims 3, 6, and 7 which depend on claim 1 and incorporate all of the limitations thereof are similarly patentable. Dependent claims 9-15 which depend on claim 8 and incorporate all of the limitations thereof are similarly patentable. Likewise, dependent claims 18-20 which depend on claim 17 and incorporate all of the limitations thereof are similarly patentable.

Applicant respectfully points out that the present Office Action has not remedied the oversights and flaws of the previous Examiner, and instead has merely maintained the art rejections of the Office Action of Feb. 5, 2009.

Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 3, 6-15, and 17-20 under 35 U.S.C. § 103(a).

Double Patenting

Applicant respectfully maintains that the invention as presently claimed is patentably distinct from the cited prior patents, and that no terminal disclaimer is necessary in the present application. Nevertheless, in the interest of expedited prosecution, four terminal disclaimers are filed herewith, to address the provisional double patenting rejection of claims 1, 3, 5-15 and 17-20. Accordingly, Applicants respectfully request that the provisional double patenting rejections be withdrawn.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 1, 3, 5-15, and 17-20 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement.

The Office Action states:

Independent claims recite, "wherein the KDS [*sic*] is a separate entity from the first application server" and "issuing a key reply directly to the client if the authentication of the third party access information, session rights and the client authorization are verified", however, these limitations have no support in the instant specification. In paragraph [0087 and 0088], separation of third party authentication (server) and key management protocol which in turn provides a separation of data and authentication.

(Office Action, page 5.) Applicant respectfully traverses the rejection.

Applicant previously amended claim 1 to recite "wherein the KDC is a separate entity from the first application server," to provide a clarification suggested by the Office Action of Feb. 5, 2009 (see page 3, item 7).

Support for the amendment is found in Applicant's specification as filed. For example, in FIG. 1, two separate entities are depicted for KDC 104 and first application server 106. These entities are clearly shown in FIG. 1 as separate from one another. In fact, FIG. 1 depicts no direct communication between KDC 104 and first application server 106.

In addition, Applicant's specification discusses KDC 104 and first application server 106 in terms that support "wherein the KDC is a separate entity from the first application server." *See, e.g.*, Applicant's specification, U.S. Publ. No. 2003/0149880, [0030], which recites "one or more clients 102 interacting with one or more centralized Key Distribution Centers (KDC) 104 . . . **as well as** with individual application servers, such as the first and second application servers 106 and 107." It is clearly stated that the system includes the KDC **as well as** the first application server – accordingly, the specification fully supports the reading that they are not the same entity.

Claim 8 recites "issuing a key reply directly to the client if the authentication of the third party access information, session rights and the client authorization are verified" and claim 17 similarly recites "issuing a key reply directly to a client if the authentication of the access information, session rights and the client authorization are verified." It is

unclear which portion of the quoted language is believed to be unsupported; however, the Office Action appears to take issue with the term “directly.”

Support for the term “directly” is found in Applicant’s specification as filed. For example, in FIG. 1, an arrow representing the claimed “key reply” is depicted as issuing from the first application server 106 **directly** to the client 102. That is, the arrow labeled “KEY_REP” does not pass through any other entity, but instead issues **directly** from the first application server 106 to the client 102. In addition, Applicant’s specification discusses the key reply in terms that support “issuing a key reply directly to [a] client.” *See, e.g.*, Applicant’s specification, U.S. Publ. No. 2003/0149880, [0041], which recites “Key Reply message (KEY_REP): Reply message from the first application server 106 to the client 102...”

For at least the reasons set forth above, Applicant respectfully requests withdrawal of the rejections under § 112, first paragraph.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 1, 3, 5-15, and 17-20 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite.

Applicant thanks the Examiner for the suggestions to amend independent claim 1 with the subject matter that is disclosed in dependent claim 6, and to amend independent claim 17 with the subject matter disclosed in paragraph [0060-0062] and/or [0082]. In the event that the Examiner is able to suggest one or more amendments that would result in the withdrawal of the pending art rejections as well as the pending § 112 rejections, and that would result in a timely Notice of Allowance, the Examiner is invited to contact Applicant’s undersigned representative to discuss such amendments.

However, Applicant respectfully maintains that independent claims 1, 8, and 17 are patentable as presently claimed, and the rejection is respectfully traversed.

The rejection of claim 8 under 35 U.S.C. § 112, second paragraph, is believed to be improper. The Office Action does not point to any language of claim 8 that is rejected as indefinite, and gives no specific rationale for the rejection of claim 8 as indefinite.

With regard to the rejection of claim 1 under 35 U.S.C. § 112, second paragraph, claim 1 recites, “A communication authorization method ...” The Office Action asserts

(at page 5) that the claim limitations “however do not show how that authorization takes place or what the criteria under which such authorization is achieved.” Applicant respectfully submits that this specific showing is not mandated by § 112. The Office Action does not cite any authority for such a proposition.

Applicant points out that the limitations set forth after the preamble of claim 1 comprise steps of a communication authorization method. Applicant acknowledges that dependent claim 6 sets forth *additional* steps of a narrower method; however, § 112 does not require that a broad independent claim must incorporate all the limitations of claim 6 or of any other dependent claim.

Similarly, with regard to the rejection of claim 17 under 35 U.S.C. § 112, second paragraph, claim 17 recites, “A method for providing secure communication ...” The Office Action asserts (at page 6) that the claim limitations “however do not show providing secure communication can be achieved.” Applicant respectfully submits that the limitations set forth after the preamble of claim 17 comprise steps of a method for providing secure communication.

“Only claims ‘not amenable to construction’ or ‘insolubly ambiguous’ are indefinite.” *Datamize, LLC v. Plumtree Software, Inc.*, 417 F.3d 1342, 1347 (Fed. Cir. 2005) (citing *Novo Indus., L.P. v. Micro Molds Corp.*, 350 F.3d 1348, 1353 (Fed. Cir. 2003); *Honeywell Int'l, Inc. v. Int'l Trade Comm'n*, 341 F.3d 1332, 1338 (Fed. Cir. 2003); *Exxon Research and Eng'g Co. v. United States*, 265 F.3d 1371, 1375 (Fed. Cir. 2001)). Applicant respectfully submits that, notwithstanding the Examiner’s suggestions to narrow the independent claims, it is already the case that independent claims 1, 8, and 17 are **not ambiguous**, and are **amenable to construction** as presently written. In light of this standard, and for at least the reasons set forth above, Applicant respectfully requests withdrawal of the rejections under § 112, second paragraph.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions, comments, or suggestions, the Examiner is invited to contact the Applicant's undersigned representative at the telephone number indicated below.

Respectfully submitted,
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Date: May 24, 2010

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